

AUBURN PUBLIC INQUIRY

Before the Commissioner: Mr Richard Beasley SC
Counsel Assisting: Mr Paul Bolster
Officer Assisting: Mr Darren Sear

Held at the Civic Precinct Centre
1 Susan Street, Auburn NSW

On Thursday, 25 August 2016 at 10.00am

1 MR BOLSTER: Mr Commissioner, there are a few matters of
2 documentary tender which I thought we would deal with
3 first, just so that my learned friends are aware of them,
4 and if there are any problems with them, I will have notice
5 of it and we can perhaps deal with them later. After that
6 we will call Mr Zraika.

7
8 In terms of the documentary tender, can I firstly
9 tender a set of the Auburn LEP as it currently stands, or
10 at least as it stood until the amalgamation. This includes
11 the development control plan and the LEP, and the larger
12 folder is the LEP maps.

13
14 THE COMMISSIONER: I would have tendered that first, on
15 day 1. The Auburn Local Environmental Plan 2010, the
16 Auburn Development Control Plan 2010 and associated maps
17 will be exhibit GEN19.

18
19 **EXHIBIT #GEN19 AUBURN LOCAL ENVIRONMENTAL PLAN 2010, AUBURN**
20 **DEVELOPMENT CONTROL PLAN 2010 AND ASSOCIATED MAPS**

21
22 MR BOLSTER: All of those developments are available now
23 on what is the Cumberland Council website.

24
25 In the case of the John Street issue, can I tender two
26 documents that are missing from the current bundle as it
27 stands. Firstly, the original contract of sale from 2011,
28 and the tender submitted on behalf of Sydney Constructions
29 and Developments. I have a copy for my learned friends if
30 they want to see that first.

31
32 THE COMMISSIONER: Could they just be inserted at the back
33 of the current exhibit?

34
35 MR BOLSTER: They could very easily. Perhaps they should
36 be inserted at the front of it. Because they are the
37 initiating documents.

38
39 THE COMMISSIONER: All right. Just before you go on, is
40 this the first contract?

41
42 MR BOLSTER: Yes.

43
44 THE COMMISSIONER: So after the tender.

45
46 MR BOLSTER: It is the tender and the first contract.
47

1 THE COMMISSIONER: That would be March 2013, would it?
2
3 MR BOLSTER: No, 2011. The second contract was the '13
4 contract.
5
6 MR DUGGAN: I don't have any issue with the tender. What
7 I would inquire about is whether the losing tenderer also
8 has a bundle of tender documents, and I would ask for that
9 to be tendered, if that exists.
10
11 THE COMMISSIONER: Why do we need that?
12
13 MR DUGGAN: The suggestion may be that this is somehow
14 uncommercial. If there is some losing tenderer out there,
15 the fact that they have put forth --
16
17 THE COMMISSIONER: This is the original tender.
18
19 MR BOLSTER: There is no suggestion that that was
20 uncommercial.
21
22 MR DUGGAN: That any transaction proposed was
23 uncommercial?
24
25 MR BOLSTER: The transaction in 2011 is not under
26 investigation. There is no suggestion that there was
27 anything wrong with that transaction.
28
29 MR DUGGAN: I understand that, but if there are some terms
30 in any subsequent offers that are made, if there is
31 a suggestion that that is uncommercial, the best thing to
32 compare them against would be the losing tender in this
33 bid. I'm just not sure how my friend is going to structure
34 any submission.
35
36 THE COMMISSIONER: I'm not quite sure I understand why we
37 would want the documents from the unsuccessful tenderer
38 back in 2011.
39
40 MR BOLSTER: I will look at it. If I think there is an
41 issue there I will speak to my friend.
42
43 THE COMMISSIONER: In any event, there is no reason why
44 this can't be an exhibit.
45
46 MR DUGGAN: No, I'm not suggesting that.
47

1 THE COMMISSIONER: I think these can just - whether I put
2 it at the front or the back of the bundle doesn't make any
3 difference, I don't think.

4
5 MR CHESHIRE: It is easier to get a page number at the
6 back of the bundle.

7
8 THE COMMISSIONER: Yes. You are right. The contract for
9 sale of land for 13 John Street, Lidcombe, dated 1 March
10 2011, between the Auburn City Council and Sydney
11 Construction and Developments Pty Limited and the tender
12 submitted by Simon Diab & Associates on behalf of Sydney
13 Construction and Developments Limited, I will add to the
14 back, to the end of exhibit JS1.

15
16 MR BOLSTER: In relation to the evidence of Mr Jack
17 concerning Mr Duong from Ray White at Lidcombe, the inquiry
18 has been in contact with Mr Duong and he has conveyed to us
19 his response to a number of issues. I have discussed this
20 with Mr Watson and we have agreed that I will read on to
21 the record what Mr Duong's position is in relation to those
22 various matters.

23
24 THE COMMISSIONER: All right.

25
26 MR BOLSTER: There are six dot points:

- 27
28 . Warren Jack did not disclose to him that
29 there were orders from council.
30 . Mr Jack was actively involved in creating
31 the advertisement.
32 . Mr Duong only became aware of the council
33 orders when he received a letter from
34 council.
35 . Mr Duong asked Mr Jack about these
36 orders.
37 . Mr Jack indicated to Mr Duong not to
38 worry about it and that he was working to
39 have the matters addressed with council.
40 . Mr Duong stated that there were a number
41 of offers in the \$2 million to \$2.5 million
42 range. These were subject to all the work
43 obtaining the required approvals.

44
45 I have read that as it is printed. It is not the way
46 I would have put it.

47

1 MR WATSON: That is absolutely sufficient. Thank you. I
2 am very grateful.
3
4 MR BOLSTER: Finally, Mr Duong did not feel comfortable
5 selling the property and he advised that he had recommended
6 that the property be withdrawn from sale. This concerns
7 the period in March/April 2015.
8
9 THE COMMISSIONER: All right. There is no need for
10 Mr Duong to be summonsed and come here, from your point of
11 view.
12
13 MR WATSON: I am very grateful for the work done to
14 collect that.
15
16 THE COMMISSIONER: I suppose to the extent that Mr Duong
17 has his own responsibility for advertising, we are not
18 inquiring into that, so we don't need him. All right.
19
20 MR BOLSTER: Commissioner, the inquiry is in receipt of
21 documentation from Telstra concerning the mobile phone
22 records and activity between Mr Attie and Mr Sankari
23 between 26 July 2015 and 6 June 2016. I have provided my
24 learned friend with a copy of the print-out. I tender
25 that. I can indicate that all calls between Mr Attie and
26 Mr Sankari have been highlighted in that print-out.
27 I tender the document and we will arrange for all other
28 call and identifying information to be redacted. The only
29 people who will see the complete copy are Mr Watson and the
30 inquiry staff.
31
32 THE COMMISSIONER: Are you tendering that now?
33
34 MR BOLSTER: I have a copy for you. I have provided
35 Mr Watson with a copy.
36
37 MR WATSON: Thank you.
38
39 THE COMMISSIONER: Exhibit GEN20 will be a copy of the
40 phone records. Whose phone is it?
41
42 MR BOLSTER: These are calls from Mr Sankari outwards to
43 Mr Attie.
44
45 THE COMMISSIONER: This document contains more than that.
46
47 MR BOLSTER: It does. The left-hand column is the

1 outgoing --

2

3 THE COMMISSIONER: You are restricting your tender to --

4

5 MR BOLSTER: Just to the calls between Mr Sankari's number
6 which appears in the left-hand column - I won't read it
7 out - and if you --

8

9 THE COMMISSIONER: All right. Phone records indicating
10 calls made from Mr Sankari's mobile phone to Mr Attie's
11 mobile phone from July 2015 to June 2016 will be
12 exhibit GEN20. I note that in terms of what is made
13 publicly available, all other information regarding calls
14 will be redacted.

15

16 **EXHIBIT #GEN20 PHONE RECORDS INDICATING CALLS MADE FROM**
17 **MR SANKARI'S MOBILE PHONE TO MR ATTIE'S MOBILE PHONE**
18 **FROM JULY 2015 TO JUNE 2016**

19

20 MR BOLSTER: Just for the assistance of my learned friend
21 and the inquiry, in terms of the way the document is
22 structured, you have Mr Sankari's number on the left,
23 for example, on page 1, where you have the highlighted
24 numbers towards the bottom of that page, that's Mr Attie's
25 number; then you have the date, the time. The column where
26 you have the next set of numbers which vary in size, that's
27 the duration in seconds. The next columns to the right of
28 that are the individual IMEI numbers of the phones,
29 followed by the location of Mr Sankari at the time that he
30 made the call.

31

32 THE COMMISSIONER: All right.

33

34 MR BOLSTER: The next matter for tender - there has been
35 an issue with the Grey Street bundle in that the minutes of
36 the meeting of October 7, 2015, need to be included in that
37 bundle. I have prepared an insert which will commence at
38 page 539 and go through to 552. I have copies of that for
39 my learned friends.

40

41 THE COMMISSIONER: These are minutes of the council
42 meeting for 7 October 2015?

43

44 MR BOLSTER: Yes. It is a complete set of the minutes,
45 because it deals with the speakers on the matter who were
46 listed on the second page.

47

1 THE COMMISSIONER: This just gets added as pages 539 and
2 onwards of GS1, is it?
3
4 MR BOLSTER: Yes, that's right at the end of the
5 Grey Street bundle.
6
7 THE COMMISSIONER: All right.
8
9 MR BOLSTER: The next matter for tender --
10
11 MR CHESHIRE: I think it is G1, Commissioner.
12
13 THE COMMISSIONER: GS1 on mine. It is Grey Street, right?
14 I think my record is GS1.
15
16 **EXHIBIT #GS1 ADDITION OF FULL SET OF MINUTES OF THE COUNCIL**
17 **MEETING FOR 7 OCTOBER 2015**
18
19 MR BOLSTER: The next document for tender is the bundle
20 provided by Mr Wheelhouse on behalf of Mr Oueik containing
21 Mr Oueik's numerous articles in the Auburn review dealing
22 with, amongst other things, the issues of parking within
23 the Local Government Area.
24
25 THE COMMISSIONER: You are happy to tender that?
26
27 MR BOLSTER: I am happy to tender that.
28
29 THE COMMISSIONER: Just wait a moment. This has a whole
30 lot of tabs on it. Who has done that?
31
32 MR BOLSTER: The tabs will direct you to the relevant
33 articles, I think.
34
35 THE COMMISSIONER: I see. You are tendering this,
36 Mr Wheelhouse, to support the submission that you will make
37 that Mr Oueik was very concerned about parking and --
38
39 MR WHEELHOUSE: There are two issues, Commissioner. There
40 is a suggestion that Mr Oueik favoured a particular school
41 and his position was he dealt with all schools equally and
42 was addressing a single problem and that's evidenced by his
43 parking plan and the newspaper cuttings.
44
45 THE COMMISSIONER: The parking plan is already in
46 evidence.
47

1 MR WHEELHOUSE: It can be added to the parking plan
2 exhibit, if you wish, so that the two of them are together.
3
4 THE COMMISSIONER: What was that exhibit number?
5
6 MR WHEELHOUSE: GEN4, I am told.
7
8 THE COMMISSIONER: Yes. It is the black folder of A3
9 documents showing Mr Oueik's parking plan. Why don't we
10 just make this part of GEN4?
11
12 MR WHEELHOUSE: That would be helpful. The second point
13 was that there was a suggestion that Mr Oueik unfairly
14 affected staff conduct in relation to school parking and
15 this demonstrates that he had a general public interest
16 rather than a private interest in dealing with the parking
17 issue.
18
19 THE COMMISSIONER: Are these all from the one - these are
20 all from the - what's the --
21
22 MR BOLSTER: The Auburn Review.
23
24 THE COMMISSIONER: Bundle of articles concerning Mr Oueik
25 regarding parking issues will be added to exhibit GEN4.
26
27 **EXHIBIT #GEN4 ADDITION OF BUNDLE OF ARTICLES CONCERNING**
28 **MR OUEIK REGARDING PARKING ISSUES**
29
30 MR BOLSTER: The next item are the documents provided to
31 me, again, by my learned friend Mr Wheelhouse, which
32 comprise two parts: firstly, there is an analysis of the
33 voting patterns of councillors on various development
34 proposals over a period of time, as well as some material
35 concerning the ownership and layout.
36
37 THE COMMISSIONER: Is that MFI9? Is that the coloured
38 table that you had?
39
40 MR WHEELHOUSE: It is, yes.
41
42 MR BOLSTER: I will tender them as one bundle, the
43 material regarding the property ownership and the CFMEU
44 involvement in property ownership in the Marsden Street
45 precinct.
46
47 THE COMMISSIONER: I understand what was MFI9, which is

1 the table showing the voting councillors on the planning
2 proposals, is the way it was described. You are happy to
3 tender that which has been prepared on behalf of Mr Oueik.

4
5 MR BOLSTER: I am happy to tender that.

6
7 THE COMMISSIONER: I will simply change MFI9 to
8 exhibit GEN21.

9
10 **EXHIBIT #GEN21 TABLE SHOWING VOTING BY COUNCILLORS ON**
11 **PLANNING PROPOSALS**

12
13 THE COMMISSIONER: What are these other documents that you
14 have given to me?

15
16 MR BOLSTER: How about I separate those. They are the
17 material that Mr Wheelhouse has provided regarding the
18 ownership on the part of the Construction, Forestry, Mining
19 and Energy Union of land within the Marsden Street precinct
20 about which he asked Mr Campbell some questions.

21
22 THE COMMISSIONER: All right. What does this show me?

23
24 MR BOLSTER: It establishes the extent of the CFMEU
25 interest in that precinct.

26
27 THE COMMISSIONER: At the moment I have "Analyse political
28 party returns 2014/15". It has got "CFMEU Donation
29 \$50,000". Who is the donation to?

30
31 MR BOLSTER: To the Australian Labor Party.

32
33 THE COMMISSIONER: The ALP.

34
35 MR WHEELHOUSE: The New South Wales Branch.

36
37 THE COMMISSIONER: Why are we interested in the donations
38 of the CFMEU to the ALP?

39
40 MR BOLSTER: Only to complete the picture in relation to
41 the matters that Mr Wheelhouse asked Mr Campbell about.

42
43 THE COMMISSIONER: I may have forgotten the relevance of
44 that.

45
46 MR BOLSTER: It was put to Mr Campbell that he had an
47 interest --

1
2 MR WATSON: Assuming there was relevance, Commissioner.
3
4 THE COMMISSIONER: Yes. All right. There are two stages
5 to the process then. If there was relevance, what was it?
6
7 MR BOLSTER: The relevance was that it was put by my
8 learned friend to Mr Campbell that he had an interest in
9 the area under consideration for the Marsden Street
10 planning proposal because he was an endorsed Australian
11 Labor Party candidate for council, and that the Australian
12 Labor Party, who endorsed him, received donations from the
13 CFMEU, who were landowners within the Marsden Street
14 precinct. I expect Mr Wheelhouse will criticise
15 Mr Campbell for the way in which he voted. He will say,
16 I expect, that his voting showed or at least failed to
17 adequately allow for that interest.
18
19 THE COMMISSIONER: What is the link, then, that the
20 Marsden Street planning proposal would up-zone property
21 owned by the CFMEU?
22
23 MR BOLSTER: Correct.
24
25 THE COMMISSIONER: And therefore, that that's the reason
26 Mr Campbell voted in a particular way; is that the --
27
28 MR WHEELHOUSE: That was the only time he voted outside
29 the pattern of the proposed B4.
30
31 MR BOLSTER: I think to understand the submissions that
32 Mr Wheelhouse proposes to make and the submissions that
33 I will make in response, which will take issue with that,
34 you need to have that.
35
36 THE COMMISSIONER: You are tendering it, anyway, are you?
37
38 MR BOLSTER: Yes, I am tendering it.
39
40 MR WHEELHOUSE: I accept that if my learned friend wants
41 to take a contrary position, I don't expect him to --
42
43 MR BOLSTER: I am just defining the field that
44 Mr Wheelhouse and I will be competing on.
45
46 THE COMMISSIONER: What do I describe this as?
47

1 MR BOLSTER: A bundle of documents relating to --

2

3 THE COMMISSIONER: The heading doesn't make any
4 grammatical sense, but what it's headed is, "Analyse
5 political party returns - 2014/15 for the Australian Labor
6 Party".

7

8 MR WHEELHOUSE: All political parties, Commissioner, are
9 required to lodge with the Commonwealth a schedule of
10 donors and that's the Commonwealth public record of the
11 schedule of donors in respect of legal donations by the
12 CFMEU to the Australian Labor Party generally and to the
13 New South Wales Branch.

14

15 THE COMMISSIONER: How do you want me to describe this?
16 The Commonwealth record of political party donations,
17 2014/15, in relation to the CFMEU, a three-page document,
18 exhibit GEN22.

19

20 **EXHIBIT #GEN22 THREE-PAGE DOCUMENT BEING THE COMMONWEALTH**
21 **RECORD OF POLITICAL PARTY DONATIONS 2014/15 RE THE CFMEU**

22

23 THE COMMISSIONER: There are some other documents at the
24 back here that are a deposited plan. What is that? Is
25 that showing where the CFMEU's building is?

26

27 MR BOLSTER: Yes.

28

29 MR WHEELHOUSE: Commissioner, Mr Campbell said in his
30 evidence, both in his statement and elsewhere, that the
31 CFMEU only owned a minor portion of the land the subject of
32 the upzoning, if I can describe it that way, in the
33 Marsden Street precinct, but the title searches show that
34 it owned approximately 25 to 30 per cent of the land that
35 was upzoned.

36

37 THE COMMISSIONER: I see. There are title searches here
38 showing what lot number the CFMEU owns; is that right?

39

40 MR WHEELHOUSE: Yes.

41

42 THE COMMISSIONER: Within this area it owns Lot 38,
43 Lot 100. Are there three buildings or one building over
44 three lots?

45

46 MR WHEELHOUSE: I think there are five separate lots which
47 are covered by two separate buildings, Commissioner.

1 I can't bring it directly to mind without looking at the
2 paperwork.

3
4 THE COMMISSIONER: I see.

5
6 MR WHEELHOUSE: But it establishes, with some degree of
7 precision, precisely --

8
9 THE COMMISSIONER: All right. This will be exhibit GEN23.

10
11 **EXHIBIT #GEN23 TITLE SEARCH FOR LOT 38 IN DP222712 AND**
12 **ASSOCIATED DOCUMENTS; LOT 100 IN DP793305; LOT 5 IN DP397;**
13 **LOT 6 IN DP397; AND LOT 8 IN DP397**

14
15 MR BOLSTER: The next matter is MFI5, which is the
16 handwritten note of Mr Campbell concerning his discussions
17 with Mr Hamed. I tender that.

18
19 THE COMMISSIONER: MFI5, the handwritten note of
20 Mr Campbell dated 15 March 2016, becomes exhibit GEN24.

21
22 **EXHIBIT #GEN24 HANDWRITTEN NOTE OF MR CAMPBELL**
23 **DATED 15/03/2016**

24
25 MR BOLSTER: I believe they are the only matters to tender
26 at this stage. Perhaps if I could then move on and call
27 Mr Zraika.

28
29 THE COMMISSIONER: All right.

30
31 **<HICHAM ZRAIKA, sworn on the Koran: [10.25am]**

32
33 **<EXAMINATION BY MR BOLSTER:**

34
35 MR BOLSTER: Q. You are aware that Mr Warren Jack has
36 given some evidence in these proceedings?

37 A. Yes.

38
39 Q. And you are aware that in response to that Mr Attie
40 has given some evidence?

41 A. Correct.

42
43 Q. Have you read Mr Jack's evidence or the transcript of
44 the evidence that he gave on Monday?

45 A. To some extent I have, yes.

46
47 Q. I want to put to you some of the things that he has

1 said and get your reaction to them, please. Can I first
2 begin by asking you when you first met Mr Jack?
3 A. It would have been when I was mayor.
4
5 Q. When you were mayor.
6 A. Yes.
7
8 Q. That would have been?
9 A. It would have been in 2014.
10
11 Q. 2014?
12 A. Yes.
13
14 Q. When you met Mr Jack, did he raise with you any issues
15 concerning problems he was having with council?
16 A. Yes, that's - I think that's the reason why we met.
17 I was introduced to him, I believe, downstairs. I was the
18 mayor of the day and, as I was passing, I think he was
19 sitting down with some people, I don't know who they were,
20 except one of them, and he made introductions, and said,
21 "This is the mayor", and that's how I met him. He goes,
22 "By the way, there is an issue there", and that's how the
23 introduction was made.
24
25 Q. Who introduced you? Was it Mr Attie?
26 A. No.
27
28 Q. Did Mr Jack call you during 2014 to discuss his
29 property at Henry Street, Lidcombe?
30 A. As I said, when we met downstairs, at the
31 introduction, there was an issue raised. He asked about an
32 issue - there was - he said something about his property.
33 Naturally, what I will do is I email staff and say, "Can
34 you give me some background information about that?" And
35 that should be on record. And that's it. Then I think it
36 probably would have been months, many months later, I think
37 he gave me a call again to arrange a meeting with staff,
38 which I did.
39
40 Q. When do you say that was?
41 A. It would have been probably towards the end of 2014,
42 I think, or - yeah.
43
44 Q. Did you attend that meeting?
45 A. No, I actually organised the meeting but he never
46 showed up.
47

1 Q. He never showed up?
2 A. No.
3
4 Q. Did he call you some time in July 2015?
5 A. I don't know exactly when he called me but he did call
6 me in 2015, yes.
7
8 Q. When he called you, as best you can, what did he say?
9 A. Well, he wanted to meet up and discuss the issue to do
10 with the property.
11
12 Q. I am talking about July 2015.
13 A. I don't know if it was July. It was - I think it was
14 in 2015; mid 2015, it would have been.
15
16 Q. When he spoke to you on the phone and said he wanted
17 to have a meeting with you, did he say what it was about?
18 A. Just about the property; that's my recollection of it,
19 yeah.
20
21 Q. Did he tell you what the problem was that he wanted to
22 talk to you --
23 A. No, just, "Can we meet?" And naturally, I would say
24 yes.
25
26 Q. You said yes?
27 A. That's me.
28
29 Q. Just on the basis, "Hicham, I want to meet with you",
30 you said, "Yes"?
31 A. I do that - I do that a lot, yeah.
32
33 Q. Wouldn't you have wanted to know what it was about?
34 A. He did say it was about the property.
35
36 Q. But couldn't you have asked him, "What about the
37 property do you want to talk to me about?" You are a busy
38 man.
39 A. Yes, but I think it was about the frustration of the
40 process to deal with his property, that's my understanding
41 of it.
42
43 Q. At that time, when he called you, in the middle of
44 2015 and asked to have a meeting with you, when was the
45 last time you had spoken to him about the property?
46 A. As I said, it would have been probably towards the end
47 of 2014 he gave me a call.

1
2 Q. The end of 2014?
3 A. Yeah - to organise a meeting which he did not attend.
4
5 Q. That was at the end of '14?
6 A. I believe so, or it could have been at the beginning
7 of '15; I'm not sure, to be honest.
8
9 Q. All right. You had met him once?
10 A. Yes.
11
12 Q. Some months after that he asks you to tee up
13 a meeting, which you do, that he didn't turn up to?
14 A. Correct.
15
16 Q. That was at the end of 2014?
17 A. Mr Commissioner, let me explain, when I say tee up
18 a meeting, I normally call staff and say, you know - and
19 arrange it with the caller. "When can you guys meet? We
20 can organise a date." He will bring his professionals,
21 they meet with our professionals and sit down. I don't
22 normally attend those meetings.
23
24 THE COMMISSIONER: Q. If this involves a planning issue,
25 you say?
26 A. Absolutely, yes.
27
28 MR BOLSTER: Q. That is understood, Mr Zraika, I am not
29 being critical of you here about that. Having met him
30 once, having taken a call from him, gone out of your way to
31 help him by organising a meeting that he didn't turn up to,
32 and then some six, seven, maybe eight months later, he
33 calls you up and says, "I want to talk to you about my
34 property, can we meet --
35 A. Yes.
36
37 Q. -- might I suggest to you, you would have had some
38 reluctance in agreeing to meet with him unless you knew,
39 firstly, what it was about? What do you say about that?
40 A. No, because it's very common in this area, people
41 would do that, so I've always done that.
42
43 Q. And secondly, because he hadn't shown up at the last
44 time - the last time you did a favour for him?
45 A. I don't count these kind of favours. If he wants
46 help, I help him.
47

1 Q. I'm not saying doing a favour for him in any sense
2 critically.
3 A. I understand, I understand, but if he did call again
4 I would still - if he calls - I would try to help if I can.
5
6 Q. When you met up where did you meet?
7 A. It was at a coffee shop, I believe, yes.
8
9 Q. Which one?
10 A. I think it was in Lidcombe; in Lidcombe.
11
12 Q. The Flower Shop Cafe?
13 A. Correct, yeah.
14
15 Q. What did he say when you got there?
16 A. Just talked about the - his frustration to do with the
17 property, the process, he couldn't get what he wants and --
18
19 Q. As best you can, what were the words that he used?
20 A. Look, I couldn't work out exactly what he wanted.
21 That's the - you know, he just - he was all over the place.
22 He talked about - more about his personal life than
23 anything, you know.
24
25 THE COMMISSIONER: Q. Did he have any documents with him
26 from council, like orders?
27 A. No, I haven't seen anything. I haven't seen anything
28 like that.
29
30 MR BOLSTER: Q. Mr Jack says - to be fair to you, I want
31 to put to you what Mr Jack says - that when you and he met
32 it was for him to tell you that he had a discussion with
33 Mr Attie where Mr Attie had made a suggestion that a sum of
34 \$200,000 could be paid in order for Mr Jack's problems to
35 go away.
36 A. That's incorrect.
37
38 Q. Just to be fair to you, Mr Jack's evidence was that
39 that was in the form of some sort of bribe?
40 A. That's incorrect.
41
42 Q. Didn't he relay that concern to you?
43 A. No.
44
45 Q. He also says that the reason why he spoke to you was
46 to tell you that Mr Attie had said - this is what Mr Jack
47 says, you will appreciate - Mr Attie told him that

1 Hicham Zraika doesn't do anything for less than \$500,000?
2 A. That's nonsense, rubbish.
3
4 Q. Was there any suggestion to you at all from Mr Jack,
5 in that meeting, that he had concerns about what Mr Attie
6 had told him in a previous meeting?
7 A. No.
8
9 Q. Did Mr Attie's name come up?
10 A. No.
11
12 Q. Are you sure about that?
13 A. Yes. He talked about the frustration to do with the
14 process to do with this property, he couldn't get what he
15 wanted to do.
16
17 Q. What did he ask you to do for him, if anything?
18 A. I actually couldn't work out what he wanted.
19
20 Q. I'm sorry?
21 A. I really couldn't work out what he wanted.
22
23 Q. Do you understand that he had converted 1A Henry
24 Street into a residential premises?
25 A. I wasn't following his issue at all.
26
27 Q. You weren't following him?
28 A. No.
29
30 Q. Is it fair to say this, that you don't have the
31 greatest recollection of what was said, but you are pretty
32 sure --
33 A. Because I wasn't following --
34
35 Q. Just listen to my question.
36 A. Sorry.
37
38 Q. You don't have a very good recollection of the
39 conversation, but you are sure that it didn't involve
40 mention of either a \$200,000 bribe or an allegation that
41 you had a habit of --
42 A. Absolutely.
43
44 Q. -- wanting half a million dollars for a development
45 application?
46 A. Absolutely, that's rubbish.
47

1 Q. Did you speak to him after this meeting?
2 A. No.
3
4 Q. The meeting was arranged by Mr Jack calling you?
5 A. Yes.
6
7 Q. Did you have his mobile phone number?
8 A. Yes, I did.
9
10 Q. Did you call him?
11 A. When? What are you talking - when?
12
13 Q. Have you ever called him?
14 A. I don't recall calling him, no.
15
16 Q. Can I show you this. I have one for the Commissioner
17 and one for Mr Price and one for Mr Watson. Do you see
18 these are the mobile phone records from council of your
19 mobile phone number during 2014?
20 A. Yes.
21
22 Q. Would you go please to 14 July.
23 A. Yes.
24
25 THE COMMISSIONER: '15, you mean, don't you?
26
27 MR BOLSTER: No, the record shows it was on the 14th
28
29 THE COMMISSIONER: No, 2015.
30
31 MR BOLSTER: Q. Yes, I am sorry, 14 July 2015.
32 A. Yes.
33
34 Q. You see there are two calls from you to --
35 A. Are these the highlighted ones?
36
37 Q. Yes. That number, I want you to assume for me, 0406 -
38 I won't read out the rest.
39 A. Yes. Was it 5.54 to 6.09, the timing?
40
41 Q. 5.54 to 6.09, yes.
42 A. When we met? Possibly. I don't know.
43
44 Q. What was that about?
45 A. Is that when we met, that evening?
46
47 Q. Mr Jack says that you and he met --

1 A. Well, that could have been the timing. I could have -
2 you know, when he called to say, "Let's meet", and see, if
3 you look at the times here, that I'm - you know, "I'm on my
4 way, I'll be there in a few minutes", that could have been
5 the call, because look at the timing: it's in the evening,
6 it is 5.54, 6.09, yes.

7
8 Q. I understand that. Is it the case that, sitting there
9 today, you don't recall precisely what was said when you
10 rang Mr Jack on those dates?

11 A. Definitely - definitely, no, I don't recall, but it
12 would have been about the meeting, the timing of the
13 meeting.

14
15 Q. Was this before the meeting or after the meeting?

16 A. I don't know. Maybe - this is probably at the meeting
17 or just minutes before the meeting.

18
19 Q. Was there anyone else present when you met with
20 Mr Jack?

21 A. Look, I don't recall. I do normally have people with
22 me. I possibly did have someone; I'm not sure.

23
24 Q. Mr Jack says you had someone with you, but they didn't
25 take part in the conversation?

26 A. I possibly did, because I would have been at an event
27 or a function and he said, "Let's meet", I called him,
28 I would be on the way; that could have been the
29 arrangement.

30
31 Q. Is the Flower Shop Cafe open, to your knowledge, in
32 the evening?

33 A. Yes, it closes till late at night, yes.

34
35 Q. At 5:54?

36 A. It is, yes.

37
38 Q. It is open for dinner, is it?

39 A. It is a coffee shop, cake and coffee shop. It is
40 situated across the Westella, the Renaissance, and
41 I normally have events there and after the events people
42 come. It normally closes at 9 o'clock, I think.

43
44 Q. We should have asked Mr Attie about this.

45 A. I'm not a regular there.

46
47 Q. That's all I wish to ask you, thank you, Mr Zraika.

1 A. Thank you.
2
3 THE COMMISSIONER: Are you tendering this?
4
5 MR BOLSTER: I tender the phone records.
6
7 THE COMMISSIONER: You have some questions, do you,
8 Mr Watson?
9
10 MR WATSON: I do.
11
12 THE COMMISSIONER: We are up to exhibit GEN25.
13
14 **EXHIBIT #GEN25 AUBURN COUNCIL PHONE RECORDS FROM**
15 **MR ZRAIKA'S MOBILE PHONE FOR THE PERIOD 19/06/2015 TO**
16 **19/07/2015**
17
18 **<EXAMINATION BY MR WATSON:**
19
20 MR WATSON: Q. I am not being critical of
21 counsel assisting, but there was a little more detail in
22 what Mr Jack had to say. Mr Jack told us that he had
23 somehow made arrangements so that he was taking advice from
24 a gentleman named Eddie Sarkis. Just assume that to be
25 Mr Jack's evidence. Mr Zraika, I think you know
26 Eddie Sarkis?
27 A. I do, yes.
28
29 Q. Mr Jack gave a little more evidence. He gave some
30 evidence which suggested that Mr Attie had sought to extort
31 \$200,000. That was the word he used. And not only that,
32 Mr Attie had told Mr Jack during the extortion attempt -
33 this is according to Mr Jack - that you don't do anything,
34 you won't approve anything, without a payment of \$500,000.
35 Just assume Mr Jack said that.
36
37 THE COMMISSIONER: I think Mr Bolster did put that.
38
39 MR WATSON: He did. This is the next step.
40
41 Q. What happened in between was Mr Jack said that he told
42 someone, and if you put the evidence together, it seems to
43 be that the someone was Eddie Sarkis. Mr Jack then said
44 that the someone who he told this to probably made contact
45 with you, so I'm going to ask you now. Did anybody else
46 ever get in touch with you at that time and tell you that
47 Ned Attie had sought to extort \$200,000 from Mr Jack?

1 A. No.
2
3 Q. Mr Sarkis didn't?
4 A. No.
5
6 Q. Did anybody else get in touch with you to tell you
7 that Ned Attie had said this terrible thing about you,
8 about the \$500,000?
9 A. Definitely not, no.
10
11 Q. Did Mr Sarkis ever relay that to you?
12 A. No.
13
14 MR WATSON: Yes, thank you.
15
16 MR DUGGAN: No questions.
17
18 MR WHEELHOUSE: No.
19
20 MR CHESHIRE: No, thank you.
21
22 MR GARDINER: No.
23
24 MR PRICE: I have some questions, Commissioner.
25
26 **<EXAMINATION BY MR PRICE:**
27
28 MR PRICE: Q. Mr Zraika, the meeting that you had with
29 Mr Jack on what appears, on reconstruction, was 14 July
30 2015 at the Flower Shop Cafe at Lidcombe, is that the
31 only --
32
33 THE COMMISSIONER: I don't know that the phone records
34 establish that. They establish a phone call. That doesn't
35 mean it was on the 14th.
36
37 MR PRICE: That's the only phone call - he said that's the
38 only phone call that there was.
39
40 THE COMMISSIONER: I don't think that was Mr Zraika's
41 evidence. I don't think Mr Zraika can quite remember the
42 date of the --
43
44 THE WITNESS: Yes, I don't remember the date of the --
45
46 MR PRICE: Q. Do you remember calling him on the way
47 there?

1 A. Yes, it most likely would have been that.
2
3 Q. Did you call him any other day?
4 A. I don't normally call him.
5
6 Q. This was the only call identified during that period
7 of time --
8 A. Correct.
9
10 Q. -- from your phone to his phone, or the phone you were
11 using to the phone he was using; correct?
12 A. Correct, yes.
13
14 THE COMMISSIONER: Q. Your memory is that the day that
15 you --
16 A. I don't normally give --
17
18 Q. Do you remember actually making a phone call to him?
19 A. It would have - it would have been; it's a common
20 practice.
21
22 Q. No, don't go "would have". Do you actually have any
23 independent - it doesn't matter if you don't, but do you
24 have any recollection of ringing?
25 A. I don't remember calling him, to be frank.
26
27 Q. You don't remember calling, okay, that's fine.
28 A. No.
29
30 MR PRICE: Q. Could I just put it this way then - it is
31 unhelpful if he has no specific memory of it - did you only
32 ever meet with him once at that Flower Shop Cafe in your
33 life?
34 A. That's right, yes.
35
36 Q. That is the meeting that counsel assisting was asking
37 you some questions about; correct?
38 A. Correct, yes.
39
40 Q. You informed the Commissioner that you may have had
41 somebody with you, you can't recall but it's possible?
42 A. Yes.
43
44 Q. Correct?
45 A. Correct, yes.
46
47 Q. Could it have been your brother-in-law?

1 A. No.
2
3 Q. Why couldn't it have been your brother-in-law?
4 A. I don't normally hang out with my brother-in-law at
5 coffee shops, or out and about, you know.
6
7 Q. You can tell the Commissioner that you might have had
8 somebody with you but 100 per cent it wasn't your
9 brother-in-law?
10 A. Mr Commissioner, I am confident it wouldn't have been
11 my brother-in-law.
12
13 Q. When you got to the meeting was he already there,
14 Mr Jack, or did you have to wait for him? Can you recall
15 that?
16 A. I actually can't recall whether I saw him - whether he
17 was there or I attended later. I could have met - he could
18 have been there and I just arrived afterwards, yeah.
19
20 Q. Do you recall how long the meeting took?
21 A. It took probably 20 minutes?
22
23 Q. Did you have a coffee?
24 A. I did, yes.
25
26 Q. Did he have a coffee or a hot chocolate or a tea?
27 A. I think he did, yes.
28
29 Q. You were aware that he wanted to discuss with you
30 details of a property that he had purchased; he told you
31 that on the phone?
32 A. Yes. He was expressing - he wanted to talk about the
33 process to do with the property and that's why we met.
34
35 Q. That was the primary purpose of the meeting?
36 A. Yes.
37
38 Q. When you got there what did you start talking about?
39 A. He actually talked about his life.
40
41 Q. All right. What parts of his life was he talking
42 about?
43 A. His personal life, his marriage breakdown, his
44 ex Italian wife, his kids, plus his deep depression that he
45 was in; that kind of stuff, yeah.
46
47 Q. How was his demeanour?

1 A. I thought he was all over the place. He wasn't -
2 yeah, I - I don't - I have a vague recollection of how he
3 spoke to me, but he didn't look - he just - all over the
4 place, that's --

5

6 Q. When you say "all over the place", did he jump from
7 topic to topic randomly, is that what you mean by "all over
8 the place", or he couldn't get his thoughts straight? What
9 do you mean?

10 A. Yeah, more likely; I couldn't work out exactly what he
11 wanted.

12

13 Q. Was he coming back to the property and then going back
14 into his personal life, that sort of thing, or was he
15 telling you about his personal life and then he moved on to
16 his property?

17 A. No, more about - he has talked the property a little
18 bit, then more about his personal life.

19

20 Q. And when you say you couldn't work out what he wanted
21 to do with the property, what do you mean by that?

22 A. I didn't know whether he wanted to operate, work - you
23 know, that kind of stuff. I actually couldn't figure out
24 exactly what he wanted.

25

26 Q. He couldn't articulate the purpose that he wanted to
27 use the property for to you?

28 A. That's correct.

29

30 Q. Did you know what the zoning was?

31

32 MR BOLSTER: I object. It is not really helpful, may I
33 suggest, for the evidence of this witness to be elicited by
34 his counsel in this fashion. It is essentially a series of
35 leading questions that are really not helpful to the
36 inquiry.

37

38 THE COMMISSIONER: No, I think that the allegations that
39 Mr Jack has made against Mr Attie and to some degree
40 Mr Zraika are pretty serious and I will allow a fairly wide
41 scope for their legal representatives to ask them what they
42 want, as long as it is on point.

43

44 MR PRICE: Q. Were you aware, when you attended the
45 meeting, what the zoning was for the property as 1A Henry
46 Street that he was talking about?

47 A. Yes, because in that 2014 meeting, when I sought

1 information from staff, it outlined exactly what the issues
2 were, and reading from that I worked it out, yes.
3
4 Q. You were aware, firstly, that Jack had been in contact
5 with council staff?
6 A. Yes.
7
8 Q. Correct?
9 A. Correct, yes.
10
11 Q. Were you aware that he had received advice from
12 council or notices from council at that point?
13 A. Well, he - from that email, from what I remember,
14 there were requests for extension of time all the time.
15
16 Q. All right. For extensions of time there must,
17 therefore, have been some sort of instruction by council to
18 Jack to do something?
19 A. Correct, yes.
20
21 Q. And Jack had asked for --
22
23 THE COMMISSIONER: I am sorry.
24
25 Q. Extensions of time for what?
26 A. It seems to me that he was doing something there.
27
28 Q. To comply with orders of the council?
29 A. Yes. And he was saying, "Give me more time", and that
30 was the chronology of the email at the time, I remember.
31 It would have been that way, yeah.
32
33 MR PRICE: Q. So you were aware that there were council
34 orders against Mr Jack?
35 A. There would have been, yes. He wanted to - it seems
36 to me that he had to comply with something and he was
37 asking for an extension of time.
38
39 Q. Was it in your mind that he had received extensions of
40 time at the time you met with him?
41 A. Definitely, because from the chronology, yes.
42
43 Q. Did he ask your advice on anything, as a councillor?
44 A. No, he just - as I said, I actually couldn't work out
45 what he wanted.
46
47 Q. Did he tell you that he had met with any other

1 councillor in relation to that issue at all?

2 A. No, not at that meeting, no.

3

4 Q. So it didn't seem like, to you, he was shopping for
5 advice; he just couldn't work out what he wanted, is
6 that --

7 A. Yes, that's the impression I have.

8

9 Q. Did he ever express to you any concerns about his
10 safety?

11 A. No.

12

13 Q. Did he ever tell you that he had been threatened?

14 A. No.

15

16 Q. Did he ever offer you any money to do anything?

17 A. Rubbish, no.

18

19 Q. Was there any follow-up between you and him after that
20 meeting in any way?

21 A. No.

22

23 MR PRICE: Thank you.

24

25 THE COMMISSIONER: Does anything arise?

26

27 MR BOLSTER: No, Commissioner.

28

29 THE COMMISSIONER: Thank you for coming, Mr Zraika. You
30 are excused.

31

32 <THE WITNESS WITHDREW

33

34 MR BOLSTER: Commissioner, before we deal with the next
35 witness, the MFIs that were shown to Mr Francis yesterday,
36 MFI14 and MFI15 - it would have been apparent from the
37 evidence that were extracted by me from a pair of zipped
38 files provided to me by Ms Cologna.

39

40 Mr Cheshire and I have had a discussion. Rather than
41 troubling Ms Cologna, the proposal is this, subject to what
42 my learned friends have to say: to tender MFI14 and MFI15
43 and to tender an electronic copy of the two zipped files,
44 which can be the definitive record of the various
45 revisions.

46

47 THE COMMISSIONER: What will they show that the hard copy

1 does not show?

2

3 MR BOLSTER: They will show the time each thing was
4 created; they will have, in case it becomes an issue for
5 anyone, the metadata for each document.

6

7 THE COMMISSIONER: What is metadata?

8

9 MR BOLSTER: The electronic footprint of the creation and
10 the alteration of the document over time.

11

12 THE COMMISSIONER: So you are tendering those?

13

14 MR BOLSTER: Yes.

15

16 THE COMMISSIONER: What becomes the exhibit?

17

18 MR BOLSTER: The physical exhibits will be MFI14 and
19 MMFI15. They will be accompanied by an electronic copy
20 which I will provide to Mr Sear.

21

22 THE COMMISSIONER: And that exhibit will include the
23 electronic copy?

24

25 MR BOLSTER: The zipped files provided by Ms Cologna to
26 the inquiry.

27

28 **EXHIBIT #GEN26 BUNDLE OF REVISIONS OF REPORT TO COUNCIL ON**
29 **BERALA VILLAGE STUDY FOR MEETING ON 16 JULY 2014, FORMERLY**
30 **MFI14, TOGETHER WITH A ZIPPED COPY OF THE FILE PROVIDED BY**
31 **MS COLOGNA FROM THE COUNCIL'S PLANNING DEPARTMENT**

32

33 **EXHIBIT #GEN27 BUNDLE OF SELECTED REVISIONS OF REPORT TO**
34 **COUNCIL ON SOUTH AUBURN PLANNING PROPOSAL FOR THE COUNCIL**
35 **MEETING OF 15 APRIL 2015, FORMERLY MFI15, TOGETHER WITH A**
36 **ZIPPED COPY OF THE FILE PROVIDED BY MS COLOGNA OF THE**
37 **COUNCIL'S PLANNING DEPARTMENT**

38

39 MR BOLSTER: I will deal with another documentary tender.
40 It is unfortunate that Mr McNally is not here, but I will
41 do it anyway.

42

43 THE COMMISSIONER: He has barely said anything, so I'm
44 sure he wouldn't have objected.

45

46 MR BOLSTER: These are a collection of four agency
47 agreements between Combined Real Estate and entities

1 associated with Mr Mehajer and Mr Oueik that I asked
2 Councillor Lam about.
3
4 THE COMMISSIONER: There is no solicitor for
5 Councillor Lam here - there is no legal representative at
6 all?
7
8 MR SEAR: No.
9
10 MR BOLSTER: They produced these to us. I'm tendering
11 them.
12
13 THE COMMISSIONER: Sorry, this has actually come from?
14
15 MR BOLSTER: It has come from Councillor Lam.
16
17 MR WHEELHOUSE: May I have a look at these documents.
18
19 THE COMMISSIONER: Have these documents come in response
20 to a summons to produce?
21
22 MR BOLSTER: Correct. They are not an MFI.
23
24 THE COMMISSIONER: Tell me what they are again?
25
26 MR BOLSTER: The first two concern entities associated
27 with Mr Oueik and the next --
28
29 THE COMMISSIONER: But what are they?
30
31 MR BOLSTER: Agency agreements, either sales agency
32 agreements or strata agency agreements, between Combined
33 Real Estate and the relevant customer.
34
35 THE COMMISSIONER: You said "Combined Realty"?
36
37 MR BOLSTER: And Combined Strata.
38
39 THE COMMISSIONER: What is Win NSW Pty Limited? That's
40 the holding company is it, or parent company?
41
42 MR BOLSTER: That is a company - if you go, for example,
43 to page 22.
44
45 THE COMMISSIONER: Combined Strata trades as Win NSW, does
46 it?
47

1 MR WHEELHOUSE: My learned friend hasn't got it
2 100 per cent correct. It appears to be a company called
3 Win NSW Pty Limited trading as Combined Strata.
4

5 THE COMMISSIONER: On another one its business name is
6 Combined Real Estate, as well.
7

8 MR BOLSTER: Minh Hua is the principal.
9

10 THE COMMISSIONER: That is Councillor Lam's
11 brother-in-law, is it?
12

13 MR WHEELHOUSE: Mr Oueik's evidence was that he didn't
14 understand there was a relationship between Councillor Lam
15 and this business.
16

17 MR BOLSTER: It's not so much Mr Oueik's understanding,
18 and Mr Oueik is not to be criticised from these documents.
19 It only goes to Councillor Lam.
20

21 THE COMMISSIONER: I'm just going to call this a bundle of
22 documents relating to Combined Strata and Combined Real
23 Estate.
24

25 **EXHIBIT #GEN28 BUNDLE OF DOCUMENTS RELATING TO COMBINED**
26 **STRATA AND COMBINED REAL ESTATE**
27

28 MR BOLSTER: I next call Mr Michael Mehajer
29

30 <MICHAEL MEHAJER, sworn on the Koran: [10.58am]
31

32 <EXAMINATION BY MR BOLSTER:
33

34 MR BOLSTER: Q. Mr Mehajer, you are a real estate agent?
35 A. Yes, currently trading.
36

37 Q. And you operate a business in the Lidcombe town
38 centre?
39

40 A. Correct.
41

42 Q. On the north side or south side of the railway line?
43

44 A. The north side.
45

46 Q. And how long have you been a real estate agent?
47

A. Close to 10 years.

Q. Do you have a background within the Lidcombe area?

1 A. Yes, I was born and raised in the area.
2
3 Q. Your attention was drawn to a property at 1A Henry
4 Street, Lidcombe?
5 A. Correct.
6
7 Q. When was that?
8 A. When I - when it got my attention, the property?
9
10 Q. Yes. When did you notice it and develop an interest
11 in it?
12 A. So that property was on the market for quite a while
13 and I believe at one stage it had several agents working on
14 the property, so there was two sign boards on the property
15 and that's when it got my attention.
16
17 Q. And when are we talking about, what period, just
18 roughly?
19 A. I can't recall the exact date, but it would have been
20 a few months ago.
21
22 Q. So it was this year?
23 A. Yes, this year.
24
25 Q. This year?
26 A. Correct.
27
28 Q. Do you remember who the agents were who had the
29 property at the time?
30 A. At the time, it was Welrealty, so they are no longer
31 trading in Lidcombe, and also Ray White.
32
33 Q. Why was the property of interest to you?
34 A. Because there were two sign boards, so it meant that
35 it was under an open agreement, so that meant there was an
36 opportunity, you know, if I had a buyer, I could approach
37 that seller.
38
39 Q. Were you looking to be the agent to sell that
40 property --
41 A. I was looking --
42
43 Q. -- or were you looking to buy it yourself?
44 A. No, I was looking for the opportunity to sell the
45 property.
46
47 Q. To sell the property?

1 A. Correct.
2
3 Q. Not to buy it?
4 A. Not to buy it.
5
6 Q. Do you recall making any approach to the owners of the
7 property?
8 A. So when - as an agent, you try to find some form of
9 communication with the owner. I tried by resources on the
10 internet, had no luck. So then I approached the property.
11 I knocked on the door. At the time I asked - there was
12 a young lady that attended the door. I asked her whether
13 or not she was the owner, she said no, she was the tenant.
14 I left my business card and just said to her, "I've got
15 someone that will be interested in buying. Can you please
16 pass on my details."
17
18 Q. Did you have someone that was interested in buying?
19 A. Definitely.
20
21 Q. Who was that?
22 A. A Korean buyer, looking to operate a business there.
23
24 Q. And had they come and seen you looking for a property
25 in general in the Lidcombe area?
26 A. In Lidcombe in general there is no commercial for
27 sale - well, there's hardly any commercial for sale, so
28 there is a lot of demand for it.
29
30 Q. Perhaps a better way of putting the question is this:
31 did the Korean buyer come to you and ask you about this
32 particular property or did you introduce this particular
33 property to the buyer?
34 A. So with most of our buyers, they have a specific
35 criteria, and their criteria were similar to that property.
36 So I would have introduced the property to my buyer. But
37 I didn't introduce the property to my buyer because
38 I didn't - never had an opportunity to sell the property.
39
40 Q. How many times did you make approaches to the person
41 who was inside the premises at 1A Henry Street?
42 A. Two times.
43
44 Q. Two times?
45 A. Yes.
46
47 Q. Is that all?

1 A. Yes, about two times.
2
3 Q. Did you get any response from the owner?
4 A. No, I got a response from the agent. So the agent
5 that was looking after the property at the time was
6 Homelink. They gave me a call and they said to me, "You've
7 got a buyer?" I said, "Yes, pass the message on to the
8 owner. If there is an opportunity that we can work
9 together I will be happy to take the next step." Then
10 probably about a week later it was on the market with them
11 for auction.
12
13 Q. The buyer that you had - the particular criteria that
14 they had, were they commercial or residential?
15 A. Commercial.
16
17 Q. Commercial?
18 A. Yes.
19
20 Q. You knew the zoning of the property, didn't you?
21 A. No, I didn't have a copy of the contract.
22
23 Q. Wouldn't you, as an experienced Lidcombe real estate
24 agent --
25 A. I had an idea, I had an idea it might be commercial.
26
27 Q. Wouldn't you have looked - wouldn't that be the first
28 thing you would do, before you marry up a buyer who was
29 seeking a commercial property, to marry up their
30 requirements with whether or not the LEP had zoned it as
31 commercial premises?
32 A. No, not really.
33
34 Q. You looked at the property and you assumed that it was
35 a commercial site?
36 A. Correct, because there was - previously I think it was
37 rented out to the Salvation Army and I think it was
38 operating as a commercial property.
39
40 Q. So you told a buyer, your buyer, your customer --
41 A. I didn't tell nothing.
42
43 Q. That you thought it was a customarily site?
44 A. I didn't tell nothing to my buyer. So until I have
45 a listing, I don't mention the property.
46
47 Q. When you told the lady who was in occupation of the

1 site that you had a buyer in mind, you had a buyer in mind
2 as a commercial buyer, not a residential buyer?

3 A. We didn't discuss the details of what the buyer was.
4 I said, "I have a buyer for the property", and that's as
5 far as it went.

6
7 Q. But you told me that buyer was a Korean buyer who was
8 looking for a commercial property?

9 A. Correct. But I didn't discuss that with the person
10 because I didn't even know if she was the owner. My
11 assumption was she was the tenant.

12
13 THE COMMISSIONER: Q. That's what she told you?

14 A. She didn't tell me she was the tenant; I assumed she
15 might have been -- -

16
17 Q. You assumed that?

18 A. Yeah, she might have been the tenant. Sorry.

19
20 MR BOLSTER: Q. To be fair to you, Mr Jack, who was the
21 owner of the property, has alleged or given evidence to the
22 effect that his staff member was harassed by you on more
23 than two occasions; he doesn't say precisely how many.
24 What do you say about that?

25 A. When - define "harass"? Because if I was going to
26 harass someone, I wouldn't leave my business card.

27
28 Q. I think that's a fair point. But the suggestion is
29 that you kept coming back on more than two occasions and
30 were extremely persistent in seeking to have contact with
31 the vendor, or the person who you hoped would be the
32 vendor?

33 A. Look, "persistent" is a fair call. As an agent,
34 obviously you need to be persistent. But, in saying that,
35 if someone tells me to piss off, it's very clear, I will -
36 you know, I'm not going to harass them.

37
38 Q. And just to be clear, again, Mr Jack has made an
39 allegation that you were doing this on behalf of other
40 people by the name of Mehajer in the Lidcombe area. What
41 do you say about that?

42 A. I --

43
44 MR DUGGAN: I would like the specific allegation to be put
45 by reference to the transcript.

46
47 MR BOLSTER: I'm not putting any allegation to him. I'm

1 giving him an opportunity to clear your client.
2
3 MR DUGGAN: There is Mr Jack's evidence about that.
4
5 MR BOLSTER: That's what I'm trying to do.
6
7 THE WITNESS: That's fine. Unfortunately, because we have
8 the same surname, a lot of people assume that we are
9 associated. But, just to make it clear, in my whole real
10 estate career, Salim Mehajer has never bought a property
11 off me, nor have I ever sold a property for him.
12
13 MR BOLSTER: Thank you. That's all.
14
15 THE COMMISSIONER: Mr Watson, do you have anything?
16
17 MR WATSON: No questions, thank you, Commissioner?
18
19 MR WHEELHOUSE: No.
20
21 MR PRICE: No
22
23 MR CHESHIRE: No.
24
25 MR GARDINER: No.
26
27 THE COMMISSIONER: Do you have anything?
28
29 MR DUGGAN: Nothing, thank you.
30
31 THE COMMISSIONER: Thank you for coming. You are excused
32
33 **<THE WITNESS WITHDREW**
34
35 MR BOLSTER: The next witness is John Hajje.
36
37 **<JOHN HAJJE, sworn: [11.05am]**
38
39 **<EXAMINATION BY MR BOLSTER:**
40
41 MR BOLSTER: Q. Mr Hajje, you are a solicitor of the
42 Supreme Court?
43 A. I am.
44
45 Q. How long have you known Warren Jack for?
46 A. Many years. He is a personal friend as well as
47 a client.

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Q. Mr Jack has given evidence in this case. He gave it in a private hearing and he gave it in a public hearing earlier this week. Have you had an opportunity to see the transcript --

A. I haven't seen the transcript. I have had a brief conversation with him this morning, though, on the telephone.

Q. All right. You gave some evidence, too, at the private hearing?

A. I did.

Q. You gave some evidence about a phone call that Mr Jack had with you in July of 2015 - do you recall that?

A. I don't recall the date of the conversation but, yes, I do recall the conversation, yes.

Q. I know you have given an account of that conversation, but I would like you, for the benefit of the inquiry which is now sitting in public, to give your best recollection of what he said to you when he rang you on that day - let's leave aside what day it was - just when you received the call, what were his words and what were your words?

A. I was in my vehicle at the time when I received the phone call. He - my recollection was it was some time around mid-morning, towards lunch time, was my recollection. He told me he had been at a meeting that morning - my recollection is it was a breakfast meeting - and he said words to the effect of, "They tried to extort me. They told me that \$200,000 would make all my problems disappear." I asked him, "Who were these people you met with?" The only person I - the only name that he told me was "Ned", and some others. I don't know any of the parties involved.

Q. You have known him for a long time. What was his demeanour? How did he sound to you when he called you?

A. Very upset. Upset. He - it didn't appear to me that he was gilding the lily or making things up. He seemed to be relaying to me something that had happened that morning and it had upset him.

Q. Prior to that, do you recall when you last spoke to him?

A. I speak to him quite often, so - I speak to him most days. Not every day, but most days. He will often call me

1 with a question or a problem with work, or whatever. But
2 we speak quite often - regularly.

3
4 Q. Did he raise the issue with you again on any
5 subsequent occasion?

6 A. Quite a few times, yes. It did just come up in
7 conversation after that, how they'd tried to stand over;
8 he'd made it clear that he didn't want anything to do with
9 it. At one stage he expressed he was concerned about
10 things as a result of what had happened. Told me what -
11 well, asked me what I think he should do. I told him
12 things like ICAC were available to him if that's what he
13 wanted to do. I left it with him to make a decision, just
14 what he wanted to do with the situation.

15
16 Q. Going back, now, to what you did after the meeting,
17 after the phone call, did you make a note of it?

18 A. No, I didn't. I was - as I said, I was in the vehicle
19 and my recollection is I think I was travelling between
20 courts at the time, but I was in my vehicle at the time; it
21 was definitely then.

22
23 Q. I think you said you were up Gosford way?

24 A. It was - yeah, I would have to go back to my diary to
25 actually refresh my memory of where I was, but I know that
26 the call was received in my vehicle, whilst I was driving.

27
28 Q. I want to ask you some questions about the
29 conveyancing side of things. The property had been on the
30 market in 2015; correct?

31 A. (Witness nods head).

32
33 Q. And it was also on the market earlier this year; it
34 was listed for auction?

35 A. That's right.

36
37 Q. It was withdrawn from the auction?

38 A. I understand he has withdrawn it from auction, yes.

39
40 Q. Did you prepare the contract for each of those sales?

41 A. I did. We prepared an earlier contract for sale. He
42 thought - he thought he had a buyer, a potential buyer, so
43 we prepared a contract very quickly for him.

44
45 Q. He had listed it with - I want you to assume this from
46 me - Ray White in Lidcombe; Mr Duong was the agent. Did
47 you ever have any dealings with Mr Duong?

1 A. No, I rarely deal with the agents.
2
3 Q. But to list a residential property for sale you need
4 to have a contract, don't you?
5 A. Of course.
6
7 Q. So you prepared a contract and provided it to - you
8 would have provided it either to Mr Jack to give to the
9 agent or you would have given it to the agent yourself?
10 A. One or the other, yes. We may have emailed it through
11 to the agent.
12
13 Q. I note the inquiry's staff have asked you whether you
14 have a copy of the contract that you prepared for the
15 purposes of giving it to Mr Duong back in 2015?
16 A. Correct.
17
18 Q. Have you been able to search through your records?
19 A. No, what I've found is - it appears what we have done
20 is we've taken the contract that previously existed and
21 just updated the searches to use this time around, when he
22 decided to put it back on the market.
23
24 The contract I know was sent through incomplete from
25 us, because I ensured that there was a special condition
26 there dealing with the problems from council, referring to
27 certain letters. I didn't have those letters from council,
28 Warren did, and I - I'd sent - we'd sent the contract
29 through to the agent but I told Warren he had to get the
30 letters to the agent to be attached to the contract.
31
32 Q. Do I take it that the position is this: by the time
33 of the second sale in 2016, when it was crystal clear that
34 orders were in place for the removal of certain
35 renovations --
36 A. They were internal partitions, walls put up.
37
38 Q. But council had made orders about the property?
39 A. Oh, yes.
40
41 Q. You had included those in the contract that you
42 prepared in 2016?
43 A. Well, as I said, I included a special condition
44 referring to them, but the actual letters that I didn't
45 have in my possession, Warren was to provide to the agent
46 to attach.
47

1 Q. And you have provided that contract to the inquiry?
2 A. I did, yes. I had that sent through yesterday.
3
4 Q. We will have a copy of that shortly, but I want to
5 take you back to 2015. The contract that you prepared in
6 2015 to give to Mr Duong, did that have any reference to
7 the planning problems that Mr Jack was experiencing in
8 relation to the property at that time?
9 A. Without looking at it I couldn't tell you
10 categorically one way or the other. I don't know.
11
12 Q. At that time, did you know of the problems that he was
13 facing?
14 A. Had the problems arisen by then I would say yes, I
15 knew about them, because I - as his problems arose, he
16 would tell me about his problems.
17
18 Q. Mr Duong says that he was working to have the matters
19 addressed with council at the time - that is,
20 around April/May 2015. Were you a part of that process?
21 A. No.
22
23 Q. Of dealing with council?
24 A. No.
25
26 Q. But did he tell you about what those problems were?
27 A. I understood what the problems were. I understood
28 from Mr Jack what the problems were.
29
30 Q. Do I take it you are an experienced conveyancer?
31 A. I've been doing it for a long time.
32
33 Q. If you were aware back in 2015 that there were
34 problems with the council, what steps - your practice would
35 have been to do what?
36 A. To disclose the problems.
37
38 Q. To disclose the problems?
39 A. Absolutely. There is a duty of disclosure on vendors
40 in relation to the properties.
41
42 Q. Do I take it your evidence to me is that you don't
43 have any clear recollection of what was disclosed in the
44 contract?
45 A. That's correct.
46
47 Q. What would your practice have been as far as

1 disclosure of those problems back in March or April of
2 2015, based on what you knew at the time?
3 A. That would have been disclosed in the contract.
4 I mean that's advice I give every vendor.
5
6 Q. Could you have a look please at this document. I have
7 a copy for Mr Watson, the Commissioner and the witness.
8 This is the contract you prepared in 2016?
9 A. It would appear to - I couldn't tell you the date, but
10 it would appear to be that.
11
12 Q. Just have a look at the front page; I may be able to
13 help you here. Do you see the agent is Homelink?
14 A. I can actually tell you that the date of the search is
15 28 June 2016.
16
17 Q. Yes, thank you.
18 A. So that would date the contract - we do the searches
19 as the contracts are done.
20
21 Q. Could I just take you to the special conditions.
22 Would you look at special conditions 60 and 61, which
23 appear immediately before the title search?
24 A. Yes.
25
26 Q. Do you see those?
27 A. Yes.
28
29 Q. We know that you included those in the 2016 contract.
30 Was that version, or something like it, in the earlier
31 contract that you prepared in March/April/May 2015?
32 A. Look, I can't categorically say. I don't know.
33
34 Q. Do I understand this to be your evidence? You knew
35 there were problems with council?
36 A. Yes.
37
38 Q. Consistent with your practice as an experienced
39 conveyancer, you would not have put Mr Jack and his wife in
40 jeopardy of a --
41 A. Absolutely not, no, no. I remember having the
42 conversation with him in relation to disclosure and how
43 this needed to be disclosed.
44
45 Q. Did Mr Jack seek your advice about a letter that had
46 been written to his agent in 2015 complaining about the
47 terms upon which the property was being advertised by the

1 agent?
2 A. I was aware there was a complaint --
3
4 THE COMMISSIONER: Are you talking about the letter from
5 Auburn Council?
6
7 MR BOLSTER: Yes. Perhaps the witness could be --
8
9 THE WITNESS: If I could be shown the letter I'd - yes.
10
11 MR BOLSTER: Q. Perhaps the witness could be shown
12 exhibit WJ1, at page 119.
13 A. 119.
14
15 Q. Was that referred to you?
16 A. I don't recall if this one, May '16 - oh, sorry, '15.
17 I'm certainly aware of a letter that Mr Mooney - the same
18 council officer - had sent more recently because I actually
19 sent a letter myself to him on the back of that.
20
21 Q. When you say "more recently", what do you mean by
22 "more recently"?
23 A. Without - within the last few months.
24
25 Q. All right.
26 A. It's something I'm happy to produce to the Commission
27 if --
28
29 Q. I'm not worried about that.
30 A. Yes.
31
32 Q. I am talking about March/April/May last year, when
33 this issue arose --
34 A. I was aware.
35
36 Q. -- were you aware of it?
37 A. I was aware that, or Mr Jack had told me that the
38 council had written to the agent complaining about the
39 property being sold.
40
41 Q. I take it you would have, consistent with practice,
42 reviewed your contract in the light of becoming aware of
43 that particular type of concern?
44 A. Yes.
45
46 Q. Correct?
47 A. Yes.

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Q. Do you recall doing so?

A. I couldn't swear to it, no. I don't have an independent recollection of it, so I couldn't --

Q. Do I take it you would have done your best to make sure that Mr Jack was letting any potential purchaser know?

A. Of course, and that's reflected in this contract, the fact of the existence of the special conditions.

MR BOLSTER: Thank you. I tender the contract and that is my questioning of Mr Hajje.

THE COMMISSIONER: First of all, are you tendering the transcript of the private hearing?

MR BOLSTER: Yes, thank you, Commissioner.

THE COMMISSIONER: The transcript of the private hearing involving John Hajje, given on 14 July 2016, will be exhibit PH11.

EXHIBIT #PH11 TRANSCRIPT OF PRIVATE HEARING OF JOHN HAJJE ON 14/07/2016

THE COMMISSIONER: I revoke the direction I gave that day under section 12B of the Royal Commissions Act restricting the publication of the evidence of that private hearing to people who were then in the room, so that can be publicly available now. The contract for the sale of land - this is a draft contract, isn't it?

MR BOLSTER: Yes.

THE COMMISSIONER: The draft contract for the sale of land of 1A Henry Street, Lidcombe, will be exhibit GEN29.

EXHIBIT #GEN29 DRAFT CONTRACT FOR SALE OF LAND OF 1A HENRY STREET LIDCOMBE

THE COMMISSIONER: Just before we move on, can I ask a question, firstly, Mr Hajje?

Q. When you gave the evidence at the private hearing where Mr Jack phoned you and said, "They've said to me \$200,000 and all the problems will go away", I think your evidence was that you said you couldn't swear by the actual

1 date but it was some time in the middle of the year; that
2 was as precise as you could be?

3 A. Yes. Yes.

4
5 Q. You were in your car when you took the phone call:
6 "I was in the car driving at the time." Do you remember
7 that?

8 A. Yes.

9
10 Q. That is your best recollection?

11 A. That's my best recollection, yes, Commissioner.

12
13 Q. But your evidence was that your recollection was that
14 Mr Jack said to you that he had been to lunch and you also
15 said - you again said that you thought he said to you,
16 "I've come from a lunch with these people", and you said
17 you were driving in the car, it wasn't night-time, so you
18 were pretty sure it wasn't dinner. I think this morning in
19 your evidence you said you thought that the call might have
20 been mid-morning.

21 A. I - yes.

22
23 Q. Have you had a - what has happened? Have you had a --

24 A. No, I'd actually reflected on my evidence after I had
25 given it and I seem to remember him saying it was
26 a breakfast meeting, or words to that effect. My problem -
27 the conversation itself stands out, obviously, in my mind,
28 because it has been referred to many times between Mr Jack
29 and I since. The actual timing of it, unfortunately, is
30 where I'm a little bit vague.

31
32 Q. In the private hearing when you said that he was
33 distressed and he started by saying, "I've just been to
34 lunch", your best recollection now is that that is not what
35 he said, it was a breakfast --

36 A. It's possible it was a breakfast meeting, that's the
37 only point I'm making; it's difficult for me to remember.

38
39 Q. Do you actually have a recollection of him saying
40 lunch or breakfast?

41 A. No, I think because the emphasis of my recollection
42 was on the actual content of what had occurred.

43
44 Q. I don't say this critically at all. Because you were
45 driving in the car, have you made an assumption about what
46 he said in relation to the timing, rather than having
47 a clear recollection of what he said to you, at least where

1 he was or --
2 A. All I can say, in the greatest of honesty, is
3 possibly. Could I just add, Commissioner, sorry, I'm not
4 being rude, I'm just trying to clarify, myself, I am vague
5 as to the time, but I'm certainly not vague as to the
6 contents of what his complaint was.
7
8 THE COMMISSIONER: All right. Thank you. I will leave it
9 there and let anybody else ask any questions that they
10 want. We will start with you, Mr Watson.
11
12 <EXAMINATION BY MR WATSON:
13
14 MR WATSON: Q. You said you had a conversation with
15 Mr Jack this morning?
16 A. I did.
17
18 Q. Why?
19 A. Oh, he called me because there was a newspaper article
20 published about yesterday's hearing.
21
22 Q. All right. What did he tell you about that?
23 A. He seemed to express some concerns that Mr Attie,
24 I think it is, had said that in a subsequent meeting that
25 Mr Jack had told him that it was Mr Mehajer that was
26 putting or making threats, or putting pressure, or whatever
27 it was. He was adamant that that was not correct because
28 he has never met Mr Mehajer and doesn't know him.
29
30 Q. Was that the end of the conversation?
31 A. Fairly much. It was - yeah, it was about the
32 newspaper article.
33
34 Q. Did you say anything?
35 A. Well, yes, I did say something, yes.
36
37 Q. What did you say?
38 A. I said to him, "If you don't agree with what
39 Mr Attie's evidence was, let the Commission know and if
40 they want to clarify it, you can go back and clarify it."
41
42 Q. Did you read the article?
43 A. I did.
44
45 Q. Did you notice that it referred to a breakfast
46 meeting?
47 A. I did.

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Q. The Commissioner asked you some things about exhibit PH11, your earlier transcript. Your memory has changed quite a bit since 14 July 2016?

A. Well, only relation to the timing, sir, and that's because --

Q. I am going to suggest more than that, but go ahead.

A. Certainly. Certainly.

Q. Go on. Your memory has changed quite a bit, hasn't it?

A. Well, put to me what you think I've changed.

Q. Page 3, line 47, you swore to Mr Jack saying to you, "I've just been to a lunch"?

A. Isn't that what I just covered --

Q. That evidence was wrong, was it?

A. Well, I've just covered with the Commissioner what my stance is in relation to that.

Q. That evidence was wrong, was it?

A. I cannot categorically say, sir.

Q. You don't know one way or the other?

A. I'm not sure of the timing of the date. That was my assumption at the time; I am vague on the timing.

Q. No, it's not an assumption, this is your sworn testimony: "I've just been to a lunch". That's what you attributed to Mr Jack. Was that wrong, was it?

A. Well, without going back through my phone records to look at the timing of the phone call, I cannot answer that question.

Q. In other words, it might be right?

A. It potentially could be right. I don't know.

Q. Let's go on. Page 4, lines 1 and 2, you said that Mr Jack had told you, "He had believed he had been invited to this lunch to help sort a problem". Was that evidence right or was it wrong, or can't you say?

A. My recollection is he told me he had been invited to it.

Q. No, I'm talking about the emphasis on "lunch",

1 Mr Hajje?
2 A. Well, again, sir, it is the same answer, and --
3
4 Q. I don't know that I got an answer. Was that evidence
5 right or was it wrong?
6 A. I cannot categorically say.
7
8 Q. Let me tell you another one. Page 4, lines 11 and 12.
9 You said that Mr Jack said words to the effect, "I've just
10 had lunch". Was that evidence right or was it wrong?
11 A. I was giving evidence to the best of my recollection,
12 sir.
13
14 Q. You can't tell the Commissioner now whether that was
15 right or wrong?
16 A. That's what I told the Commissioner earlier, sir,
17 before you started asking questions.
18
19 Q. I just want to know what has happened. That's three
20 occasions you gave sworn testimony about Mr Jack using
21 specific language involving lunch.
22 A. That was - look, that was clearly my recollection when
23 I gave that evidence, that he had been at a lunch meeting.
24
25 Q. Let's go on. Page 9, lines 3 and 4, this is your
26 evidence:
27
28 *My recollection is that he called me pretty*
29 *much straight after the luncheon meeting.*
30
31 Again, was that evidence right or was it wrong?
32
33 THE COMMISSIONER: It is the same evidence, though,
34 Mr Watson.
35
36 THE WITNESS: It is the same answer.
37
38 MR WATSON: There is something --
39
40 THE COMMISSIONER: I know he has repeated it, but it is
41 the same - he gave evidence that his recollection at the
42 private hearing was that Mr Jack had said it was a lunch.
43 He has given different evidence this morning.
44
45 MR WATSON: Yes. It is just that there is a point.
46 I won't go to the others. I think I have discharged
47 *Browne v Dunn.*

1
2 Q. You see, there is another change, substantial change,
3 to your evidence here today. You told the Commissioner
4 today that the word "extort" was used. Do you remember
5 giving that evidence?
6 A. Oh, I don't know whether I gave that - that may have
7 been my word, if I've put that in there today.
8
9 Q. Mr Jack may not have said that; is that what you are
10 saying?
11 A. No. No. I mean --
12
13 Q. I am sorry, I'm not sure what that answer means. Are
14 you saying Mr Jack used that word or are you not saying
15 Mr Jack used that word?
16 A. I do not have an independent recollection of that
17 being - that particular word being used. It may have been
18 used, but there was no doubt that that was the assumption
19 that he was making as a result of the meeting he had been
20 to.
21
22 Q. Well, hold on, you were asked by Mr Bolster, in front
23 of the Commissioner, on 14 July 2016, to try to use the
24 exact words. Remember that?
25 A. Yes.
26
27 Q. Did you give honest evidence on that occasion?
28 A. To the best of my ability I did, sir.
29
30 Q. This was your answer, page 4, lines 11 through to 15:
31
32 *They were words to the effect of,*
33 *"I've just had lunch". He named some*
34 *people. Don't recall the actual names.*
35 *I recall one of the names as being a Ned.*
36 *He said, "They've said to me \$200,000 and*
37 *all the problems will go away."*
38
39 That was your evidence.
40 A. Yes.
41
42 Q. That's what you told the Commissioner had been relayed
43 to you.
44 A. Yes.
45
46 Q. Do you stand by that?
47 A. Yes, words to the effect of, yes.

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MR WATSON: Thank you.

Q. I am sorry, I should ask you one other thing. You acted on the purchase of the Salvation Army Hall?

A. You have the file in front of you, sir.

Q. That's right. Did you advise Mr Jack that he could use it for commercial premises?

A. No. No, Mr Jack wanted to purchase the premises no matter what. He saw the premises and wanted to purchase those premises.

Q. Did Mr Jack ask you for advice as to whether he could use the premises for commercial purposes?

A. No. My standard response, when I'm asked that by people, is to go to council and talk to council about uses.

Q. What, to your own clients, you tell them to seek advice?

A. All the time. I act for many people, even developers, and I always tell them to go and seek advice of council, because councils do not guarantee the information in their 149 certificates is correct.

THE COMMISSIONER: Just before we go on, Mr Bolster and anyone else that knows the answer, I've got as exhibit GEN17 the Local Court transcript involving Mr Jack and some other exhibits involving Mr Jack, but I can't find in my list of exhibits - and I haven't checked the transcript - did you tender the private hearing of Mr Jack?

MR WATSON: Actually, I think that is an omission. I looked for that --

THE COMMISSIONER: Yes, because that really does need to go in, in fairness to everyone.

MR PRICE: If it is going to be tendered, I would like to say something just about one section to Mr Bolster, I'm sure it's not an unreasonable request, and I could do it over morning tea. It just relates to one discrete issue which I would rather speak to him in private about.

THE COMMISSIONER: You have a concern about the contents of something in it, have you?

1 MR PRICE: One small portion.
2
3 THE COMMISSIONER: All right. And that is best done in a
4 private conversation between you and Mr Bolster, is it?
5
6 MR PRICE: Yes.
7
8 THE COMMISSIONER: I can have it admitted as an exhibit
9 but hold off lifting the publication order until you have
10 had that conversation; would that be all right?
11
12 MR PRICE: Thank you.
13
14 THE COMMISSIONER: I think you should tender that, if it
15 hasn't been tendered.
16
17 MR BOLSTER: I tender that.
18
19 THE COMMISSIONER: I am doing that now in case anyone else
20 has a question of Mr Hajje, while he is here, that relates
21 to Mr Jack's evidence, to the extent that that would be
22 relevant. Exhibit PH12 will be the private hearing
23 transcript of the evidence of Warren Jack taken on 14 July
24 2016.
25
26 **EXHIBIT #PH12 TRANSCRIPT OF PRIVATE HEARING OF WARREN JACK**
27 **TAKEN ON 14/07/2016**
28
29 THE COMMISSIONER: Were you standing to ask a question?
30
31 MR DUGGAN: I don't think I need to ask any questions, but
32 I do wish to say this, particularly in light of Mr Hajje's
33 evidence about the conversation with Mr Jack this morning -
34 now, I don't think it's necessary for Mr Jack to be
35 recalled to be asked about that, but I do seek an
36 indication from Counsel Assisting that no finding will be
37 sought against Salim Mehajer in relation to 1A Henry Street
38 or Mr Jack, and it looks as though Mr Bolster is smiling,
39 he is prepared to give that indication.
40
41 MR BOLSTER: You always look worried when I stand up but
42 there is no need to be. I can say this for the record, so
43 it is crystal clear. There is no suggestion of Mr Salim
44 Mehajer having anything to do whatsoever with any of
45 Mr Jack's allegations in any way, shape or form.
46
47 MR DUGGAN: Thank you. I appreciate that because it was

1 reported in a particular way this morning.

2

3 MR BOLSTER: The evidence, as I perceive it, and it won't
4 go beyond this, is that it is a complete coincidence that
5 Mr Michael Mehajer has the same surname as Mr Salim
6 Mehajer. I don't even know whether they are related.

7

8 MR DUGGAN: I appreciate that. I also assume that that
9 means Mr Mehajer, my client, is not required.

10

11 MR BOLSTER: He is not required.

12

13 MR DUGGAN: Thank you. I have no questions for this
14 witness.

15

16 THE COMMISSIONER: Does anyone have a question for
17 Mr Hajje?

18

19 MR PRICE: No, thank you.

20

21 MR CHESHIRE: No.

22

23 MR BOLSTER: No.

24

25 THE COMMISSIONER: Thank you for coming. You are excused.

26

27 THE WITNESS: Thank you, Commissioner.

28

29 <THE WITNESS WITHDREW

30

31 MR BOLSTER: That brings to an end the witnesses,
32 Commissioner, and I think all of the documents for tender
33 have been tendered. Perhaps if I could have liberty to
34 consider that in the fullness of time, if there are any
35 documentary tenders, that I can circulate any documents
36 amongst those of my learned friends and see if that fleshes
37 out a problem.

38

39 There is only one outstanding issue and that is the
40 results of the forensic investigation of Mr Attie's phone
41 which we won't know until later today.

42

43 MR WATSON: We can sort that out, I'm sure.

44

45 MR BOLSTER: Yes.

46

47 THE COMMISSIONER: I assume I can make a direction

1 concerning the publication of Mr Jack's private hearing
2 without anyone needing to be present to actually hear it.

3
4 MR BOLSTER: Yes.

5
6 THE COMMISSIONER: Subject to the conversation that you
7 are going to have with Mr Bolster. All right. That is it
8 for the witnesses and evidence, subject to what you have
9 just said?

10
11 MR BOLSTER: Yes.

12
13 THE COMMISSIONER: Very good.

14
15 I said we would do submissions by way of written
16 submissions. What I am proposing is that because
17 Counsel Assisting has to, if you like, deal with every
18 single issue for every single planning proposal and other
19 matter that has been the subject of evidence, I'm going to
20 allow him until Friday, 7 October, for written submissions.
21 I will allow all other parties until 28 October.

22
23 I am not going to set a page limit. I am going to
24 trust you all, as experienced practitioners, to be sensible
25 about that, so I won't set a page limit. I don't think
26 I need to. I think that is a Friday, Friday, 28 October,
27 for everyone else and, as I said, 7 October for
28 Counsel Assisting.

29
30 MR WATSON: Could I respectfully suggest - and this is
31 more to the advantage of Counsel Assisting rather than my
32 client - perhaps Counsel Assisting should be given the
33 facility to make a submission in reply.

34
35 THE COMMISSIONER: I think, if he needs to, he can
36 make that - I won't make an order about that now, or
37 a direction. If that becomes necessary, he can let me know
38 and I will just say "yes".

39
40 MR WATSON: Commissioner, I will just add this at the same
41 time - sometimes an internecine war breaks out so that,
42 for example, I might have to make some submissions in
43 response to something that Mr Duggan says against my
44 client, that sort of thing, but again --

45
46 THE COMMISSIONER: I see. If that happens, we will deal
47 with it.

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MR WATSON: It is a big "if", so it's not necessary to do something about it now.

THE COMMISSIONER: I understand. Does anyone else want to raise anything while we are here?

MR WATSON: Could I just say this, that there was this investigation of Mr Attie's phone yesterday and that is still being finalised. There may well be something that I need to take up on Mr Attie's behalf about his contact with Mr Sankari, but what I will do is I will contact Counsel Assisting and do that privately. If it becomes an issue, it's only going to be between Mr Attie and Counsel Assisting, so the thing is that probably that could be done by way of directions before you, Commissioner, in chambers, if it ever becomes necessary.

THE COMMISSIONER: All right. Does anyone else want to raise anything while we are here? No? Good. Thank you all very much for your assistance. I will adjourn the inquiry.

AT 11.40AM THE COMMISSION WAS ADJOURNED ACCORDINGLY

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